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10 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

11 SCOTT C. SMITH,

12 Plaintiff,

13 v.

14 B. ZAVODNY, *et al.*

15 Defendants.
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CASE NO. C10-5188BHS/JRC

ORDER DENYING WITHOUT
PREJUDICE PLAINTIFF'S MOTION TO
COMPEL

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18 This 42 U.S.C. §1983 civil rights matter has been referred to the undersigned Magistrate
19 Judge pursuant to 28 U.S.C. §§ 636(b)(1)(A) and (B) and Local Magistrate Judges' Rules MJR
20 1, MJR 3, and MJR 4.

21 Plaintiff asks the court to compel defendant Scott Hutson to answer interrogatories and
22 produce documents. (ECF No. 1). A Report and Recommendation to dismiss defendant Hutson
23 is currently pending. Because of the pending Report and Recommendation, the motion is
24 DENIED WITHOUT PREJUDICE .
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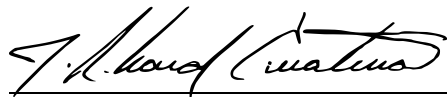
26 Plaintiff has not placed the interrogatories and requests for production that are at issue
before the court. As a result, the court is not in a position to rule on the propriety of the

1 discovery requests. Further, in the response to the motion, defendant Hutson notes that his
2 summary judgment motion is ripe for review and asks that the court stay discovery pending a
3 ruling on the motion (ECF No. 68). This is not the proper manner to bring a motion to stay
4 discovery because placing the motion in a response does not give the opposing party adequate
5 time to respond.
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7 The motion to compel is DENIED. Plaintiff may renew the motion and provide the court
8 with copies of the discovery in question if the district court does not adopt the Report and
9 Recommendation to dismiss this defendant.

10 The Clerk of Court is directed to send a copy of this Order to plaintiff and remove (ECF.
11 No. 67) from the calendar.

12 DATED this 14th day of February, 2011.
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16 J. Richard Creatura
17 United States Magistrate Judge
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